Supreme Court, U.S.
FILED
08-411 SEP 29 2008
OFFICE OF THE CLERK
William K. Suter, Clerk

106

(2)

No._____

IN THE
SUPREME COURT OF THE UNITED STATES

Isidoro Rodriguez, Esq.,

Petitioner,

v.

Editor in Chief, *Legal Times*, Individually and in his corporate capacity, *et al.*,

Respondents.

Petition For Writ of Certiorari
to the United States Court of Appeals for the
District of Columbia Circuit

APPENDIX TO PETITION FOR WRIT OF CERTIORARI

Isidoro Rodriguez
Counsel for Petitioner
Member of the Bar of this Court since
September 11, 1992

7924Payton Forest Trail
Annandale, Virginia 22003-1560
Telephone: 571.423.5066
E-Mail: isidoror@EarthLink.net

TABLE OF CONTENT

1. Judgement of the Special Designated Panel for the U.S. Court of Appeals For the District of Columbia Circuit, Docket No. 07-5234, *Isidoro Rodriguez v. Editor in Chief, Legal Times, Individually and in his corporate capacity, et al.*, ("*Special Panel in Rodriguez II*"), dated July 2, 2008, and mandate issued on August 28, 2008, affirming dismissal of the complaint based on absolute judicial/ministerial immunity from liability for suit under RICO and lack of venue in the District of Columbia of federal causes of action A–1

2. Order of the Special Designated in *Rodriguez II,* dated June 18, 2008, denying motion to disqualify A–11

3. Order of the Special Designated in *Rodriguez II,* dated May 17, 2008, denying access to *en banc* consideration of denial of Writ A–13

4. Order of the Special Designated Panel *Rodriguez II,* April 23, 2008, denying Petition for Writ of Mandamus under 18 U.S.C. § 3771A–15

5. Order of the Special Designated Panel *Rodriguez II,* February 25, 2008, granting absolute immunity to all defendants for violation of RICO A–17

6. Order of the Special Designated Panel *Rodriguez II,* December 19, 2007, denying

TRO/Preliminary Injunction, empaneling of grand jury, granting absolute judicial immunity to Committee on Admission and all defendants for RICO violation A–20

7. Order of District Court for District of Columbia, Docket No. 07-0975, June 25, 2007, denying motion to disqualify and for reconsideration A-25

8. Order of District Court for District of Columbia, Docket No. 07-0975, June 18, 2007, denying dismissing RICO action based on absolute judicial/executive immunity even for criminal acts, and to dismiss based on lack of venue A-27

9. June 29, 2007, *Void* Order of the Supreme Court of Virginia affirming *void* order of the Virginia State Bar revoking Rodriguez's license to practice law for taking "actions" to enforce his rights under Treaty and Va. Code as a father and Virginia attorney, *Isidoro Rodriguez, Esq. v. Virginia State Bar,* No. 070283 ..... A-35

10. November 28, 2006, *Void* order of the Virginia State Bar Disciplinary Board, *In re Isidoro Rodriguez, Esq.,* A-38

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.
Editor in Chief, Legal Times, Individually and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: July 2, 2008

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

JUDGMENT

This appeal was considered on the record of the United States District Court for the District of Columbia and on the briefs filed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. R. 34(j). It is

ORDERED and ADJUDGED that those portions of the judgment of the district court not already affirmed by this court be affirmed for the

* Judge Tacha, Judge McConnell, and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

reasons set forth in the accompanying memorandum.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. *See* Fed. R. App. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT: Mark J. Langer, Clerk
/s/
BY: MaryAnne McMain Deputy Clerk

MANDATE ISSUED AUGUST 28, 2008

MEMORANDUM

Isidoro Rodriguez brought suit in the United States District Court for the District of Columbia against numerous defendants[1] alleging claims

---

[1]The complaint named the following defendants: the Editors-in-Chief of *The Legal Times* and *The Washington Post*; Chief Justice John G. Roberts; The Supreme Court of Virginia; Virginia Justice Leroy Rountree Hassell, Sr.; the Virginia State Bar; Karen Ann Gould, President of the Virginia State Bar; Noel D. Sengel, Virginia State Bar Senior Assistant Bar Counsel; Virginia State Bar disciplinary officials James Leroy Banks, Jr., William Carlyle Boyce, Jr., William Ethan Glover, Glenn M. Hodge, Stephen A. Wannall, Davis J. Gogal, Daniel M. Rathbun, Edward V. O'Connor, Jr., and John W. di Zerega;

under: (1) the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962; (2) the First, Fifth, and Fourteenth Amendments to the United States Constitution and Articles I and VI of the Virginia Constitution; (3) the First and Ninth Amendments to the United States Constitution and Articles I and VI of the Virginia Constitution; (4) 42 U.S.C. § 1983; (5) 42 U.S.C. § 1985(3) and Virginia statute; (6) 42 U.S.C. § 1986; (7) the Federal Tort

---

Office of Attorney General of the Commonwealth of Virginia; Assistant Attorney General Catherine Crooks Hill; the Court of Appeals of Virginia; the Fairfax County Circuit Court; the Fairfax County J & D District Court; Virginia judge Thomas Mann; federal judges Richard W. Roberts, Jane A. Restani, Paul R. Michel, William H. Stafford, Jr., and T.S. Ellis III; U.S. Department of Justice; Director, Office of Juvenile Justice and Delinquency Prevention of the Office of Justice Programs of the U.S. Department of Justice; Office of the Solicitor General; U.S. Attorney General Alberto Gonzales; Paul McNulty, U.S. Attorney for the Eastern District of Virginia; Offices of the U.S. Attorneys for the Eastern District of Virginia and the District of Columbia; Marina Utgoff Braswell, U.S. Attorney's Office for the District of Columbia; Federal Bureau of Investigation; U.S. Department of State; U.S. Secretary of State Condoleezza Rice; Legal Advisor for Consular Affairs of the U.S. Department of State; Director, Office of Children Issues of the Bureau of Consular Affairs of the U.S. Department of State; Supreme Court of the United States; U.S. Courts of Appeals for the District of Columbia Circuit and the Fourth Circuit; U.S. District Courts for the District of Columbia and the Eastern District of Virginia; National Center for Missing and Exploited Children (NCMEC); Board of Directors of NCMEC; NCMEC officials Ernie Allen and Nancy Hammer; Proskauer Rose LLP and Susan Brinkerhoff; Miles & Stockbridge LLP & Stephen J. Cullen; Patrick H. Stiehm; Covington and Burling, Eric H. Holder, Jr., and D. Jean Veta; Committee on Admissions, District of Columbia Court of Appeals; and John Does 1-20.

Claims Act (FTCA), 28 U.S.C. §§ 2671-2680; (8) Virginia common law (intentional infliction of emotional distress and common-law conspiracy); and (9) Virginia statutes (business conspiracy under Va. Code §§ 18.2-499, 18.2-500 and the Virginia Tort Claims Act, Va. Code §§ 8.01-195.1 to 195.9). The district court sua sponte dismissed the claims against all judges under the doctrine of absolute judicial immunity and dismissed the remaining claims without prejudice for lack of venue. Rodriguez filed a motion for reconsideration, a motion to disqualify, a motion for stay, and a motion to empanel a grand jury. The district court denied all of Rodriguez's motions. Rodriguez appealed. In prior orders issued in this case; this court summarily affirmed judgment in favor of the Editor-in-Chief of *The Legal Times* and summarily affirmed the dismissal of all claims for money damages against the Committee on Admissions for the District of Columbia Court of Appeals, all federal and state judges, including defendants involved in adjudicating bar disciplinary proceedings (except for a claim related to Chief Justice Roberts' confirmation testimony), the federal agencies and the federal defendants in their official capacities, the Virginia state agencies and Virginia state defendants in their official capacities, and the Virginia prosecutors and disciplinary counsel in their individual capacities.

Our review is de novo. *See King & King, Chartered v. Harbert Int'l, Inc.*, 503 F.3d 153, 156 (D.C. Cir. 2007). With regard to all remaining claims, we now affirm for grounds other than those

relied upon by the district court. *See Jenkins v. Washington Convention Ctr.*, 236 F.3d 6, 8 n.3 (D.C. Cir. 2001); *Nat'l Mining Ass'n v. U.S. Dep't of Interior*, 70 F.3d 1345, 1353 (D.C. Cir. 1995).

Failure to Argue

Although Rodriguez asserts he is appealing the district court's denial of his postdismissal motions as well as its order of dismissal, his opening brief does not present any argument regarding the motions. Consequently, he has waived any challenge to those orders. *See Parsippany Hotel Mgmt. Co. v. NLRB*, 99 F.3d 413, 418 (D.C. Cir. 1996).

Failure to State a Claim

At least two of Rodriguez's federal causes of action fail to set forth all of the essential elements of those claims and thus fail to state a claim upon which relief may be granted. As we held in a prior action that Rodriguez brought, his § 1985(3) claim fails because he failed to alleged any equal protection claim based upon a conspiracy motivated by a racial or class-based discriminatory animus. *See In re Rodriguez*, No. 05-5130, 2005 WL 3843612, at *4 (D.C. Cir. Oct. 14, 2005). And because he did not state a claim under § 1985(3), there is no basis for relief under § 1986. *Id.*

In addition, all of the federal claims, which involve allegations of a wide-ranging, multi-year conspiracy among federal and state courts, federal and state agencies, and private defendants, are subject to dismissal for fail to state a claim upon which relief may be granted simply because "it is

patently obvious that [plaintiff] could not have prevailed on the facts alleged in his complaint." *Baker v. Director, U.S. Parole Comm'n*, 916 F.2d 725, 727 (D.C. Cir. 1990) (per curiam); *see also Bell Atl. Corp. v. Twombly*, 127 S. Ct. 1955, 1974 (2007) ("[W]e do not require heightened fact pleading of specifics, but only enough facts to state a claim to relief that is plausible on its face. Because the plaintiffs here have not nudged their claims across the line from conceivable to plausible, their complaint must be dismissed."). Particularly, Rodriguez's allegations include no facts suggesting "unity of purpose" or a "meeting of the minds" among the defendants, a necessary element of a conspiracy. *See Kreuzer v. Am. Academy of Periodontology*, 735 F.2d 1479, 1487 (D.C. Cir. 1984) (quotation omitted).

Failure to Exhaust Administrative Remedies

To proceed under the FTCA, Rodriguez first must file an administrative claim. 28 U.S.C. § 2675(a). An administrative claim must be presented to the agency within two years of the accrual of the claim; a court action must be filed within six months after the agency's denial. *Id.* § 2401(b).

Rodriguez's complaint fails to demonstrate that he exhausted his administrative remedies as to each of his FTCA claims. Further, it affirmatively shows that some of his FTCA claims are untimely, as he alleges that he received a denial of an administrative claim in 2002. *See also In re Rodriguez*, 2005 WL 3843612, at *3 (noting that

Rodriguez had not exhausted his administrative remedies with regard to all but one of his FTCA claims).

Rooker-Feldman and Younger

With regard to Rodriguez's claims against the Virginia defendants, those claims challenge decisions by the Virginia state bar and the Virginia courts or are inextricably intertwined with such decisions. To the extent that those decisions were final at the time of the filing of the complaint, the claims are barred by the *Rooker-Feldman* doctrine. *See Rooker v. Fid. Trust Co.*, 263 U.S. 413 (1923); *D.C. Court of Appeals v. Feldman*, 460 U.S. 462 (1983); *see also Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005) (stating that the *Rooker-Feldman* doctrine is applicable to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments"). And to the extent that some of the decisions were not final because proceedings were still pending, the district court would have had to exercise equitable restraint from hearing his claims under the *Younger* doctrine. *See Younger v. Harris*, 401 U.S. 37 (1971).

Improper Forum

The Committee on Admissions of the District of Columbia Court of Appeals denied Rodriguez's application for bar admission before he filed his

federal complaint. The proper forum for review of that decision was the District of Columbia Court of Appeals, not the federal district court. *See* D.C. Court of Appeals Rule 46(g) (providing for review of Committee decisions); *see also Feldman*, 460 U.S. at 482 (holding that the federal district court had no subject matter jurisdiction to review the court's denial of a particular application for admission to the District of Columbia bar).

Preclusion

We take judicial notice of the prior litigation involving most of these parties. *See Gullo v. Veterans Coop. Housing Ass'n*, 269 F.2d 517, 517 (D.C. Cir. 1959). In that action Rodriguez raised some of the same claims, based on the same underlying circumstances. *See In re Rodriguez*, 2005 WL 3843612, at *1 (noting that appellant brought claims "alleging that the defendants conspired to deprive him of his constitutional rights under the First, Fifth, and Ninth Amendments and civil rights under 42 U.S.C. §§ 1985(3) and 1986 (2000) and are also liable under the Federal Tort Claims Act").[2] Consequently, the doctrines of claim

---

[2] In the prior litigation, Rodriguez named the following parties in his original complaint:

> the National Center for Missing and Exploited Children, Ernie Allen, Nancy Hammer, Guillermo Galarza, Proskauer Rose LLP, Warren L. Dennis, Susan Brinkerhoff, Miles & Stockbridge LLP, Stephen J. Cullen, Patrick H. Stiehm, Mary B. Marshall, Robert McCannell, Knute E. Malmborg, and John

preclusion (res judicata) and issue preclusion (collateral estoppel) likely bar further litigation on these issues against these parties.[3]See Nat. Res. Def. Council v. Envtl. Prot. Agency, 513 F.3d 257, 260 (D.C. Cir. 2008) (setting forth standards for claim preclusion); *Yamaha Corp. of Am. v. United States*, 961 F.2d 245, 254 (D.C. Cir. 1992) (setting forth standards for issue preclusion). Further, claim preclusion bars relitigation not only of all matters determined in the prior action, but all matters that might have been determined, *Tutt v. Doby*, 459 F.2d 1195, 1197 (D.C. Cir.1972), and issue preclusion bars new legal theories that could

---

> Does 1-20, in their individual capacity, the Office of Children Issues, the Office of Legal Advisor for Consular Affairs, U.S. Department of State, an unknown number of unnamed and unknown employees of the United States in their official and individual capacities, the United States Department of State, and the United States of America.

In re Rodriguez, 2005 WL 3843612, at *1 n.3. While that case was pending, "Rodriguez filed an amended complaint, adding numerous additional defendants, including every court and the majority of judges who had ruled on his previous federal and state filings." *Id.* at *1.

[3]Because claim preclusion "protects not only the interests of a particular party but the interests of the court," this court has held that the issue can be considered for the first time on appeal. *Brown v. Dist. of Columbia*, 514 F.3d 1279, 1285-86 (D.C. Cir. 2008); *see also Stanton v. Dist. of Col. Court of Appeals*, 127 F.3d 72, 77 (D.C. Cir. 1997) ("As res judicata belongs to courts as well as litigants, even a *party's* forfeiture of the right to assert it . . . does not destroy a *court's* ability to consider the issue *sua sponte*.").

have been raised in the prior action, *Hall v. Clinton*, 285 F.3d 74, 81 (D.C. Cir. 2002).

State-Law Claims

It is proper for a district court to decline to exercise supplemental jurisdiction over state-law claims once it has disposed of all of the claims over which it has original jurisdiction. *See* 28 U.S.C. § 1367(c)(3). Because the federal-law claims were all subject to dismissal, as discussed above, the state-law claims were subject to dismissal as well.

Conclusion

For these reasons, the district court's judgment of dismissal is affirmed.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.

Editor in Chief, Legal Times, Individually and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: June 18, 2008

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

ORDER

Upon consideration of appellant's motion to disqualify the panel, it is

ORDERED that the motion be denied. *See SEC v. Loving Spirit Found. Inc.*, 392 F.3d 486, 494 (D.C. Cir. 2004) (observing that adverse judicial decisions "virtually never provide a basis for recusal"). It is

FURTHER ORDERED, on the court's own

*Judge Tacha, Judge McConnell, and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

motion, that the record and the presentations in the briefs. The court has determined oral argument will not assist it in this case. See Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j).

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk
BY: /s/Linda Jones
Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.
Editor in Chief, Legal Times, Individually
and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: May 17, 2008

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

ORDER

Appellant has filed a petition for rehearing en banc, by all sitting judges of the United States Court of Appeals for the Tenth Circuit, of the denial of his petition for a writ of mandamus under the Crime Victims' Rights Act, 18 U.S.C. § 3771(d)(3). He also has filed a petition for a hearing en banc by all sitting judges of the Tenth Circuit in his pending appeal. But this appeal is not before the Tenth Circuit. Although Circuit Judges Tacha, McConnell, and Gorsuch are judges of the Tenth Circuit, in this

* Judge Tacha, Judge McConnell, and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

appeal they are sitting by designation pursuant to 28 U.S.C. § 291(a). Accordingly, there is no Tenth Circuit en banc court to entertain appellant's petitions. It is

ORDERED that the petition for rehearing en banc and the petition for hearing en banc be dismissed.

Per Curiam

FOR THE COURT: Mark J. Langer, Clerk
BY:/s/
Michael C. McGrail Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.
Editor in Chief, Legal Times, Individually and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: April 23, 2008

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

ORDER

Upon consideration of appellant's petition for a writ of mandamus pursuant to the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771(d)(3),[1] it is

*Judge Tacha, Judge McConnell and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

---

[1]18 U.S.C. § 3771(d)(3) provides that the court of appeals shall "take up and decide [a CVRA] application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter." This petition has been decided within the statutorily permissible extended time frame.

ORDERED that the petition be denied as frivolous. Even assuming that appellant could be considered a "crime victim" as that term is defined in 18 U.S.C. § 3771(e), his requests for relief go well beyond enforcing the rights that the CVRA accords to crime victims. Further, contrary to appellant's contentions, he has an adequate remedy other than mandamus – namely, a direct appeal of the district court's judgment, which is pending under this case number. We caution appellant that the filing of any further frivolous submissions may result in the imposition of sanctions against him. *See* D.C. Cir. Rule 38.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk
BY: /s/ Scott H. Atchue Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.
Editor in Chief, Legal Times, Individually and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: February 25, 2008

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

ORDER

Upon consideration of the federal and Virginia state defendants' motions for summary affirmance, the court's December 19, 2007, order to show cause, and appellant's response thereto, and it appearing that partial summary disposition on certain claims is appropriate because the merits are so clear as a matter of law that no substantial question regarding their disposition exists, *see Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297-98 (D.C. Cir. 1987), it is, on grounds other than those relied upon by the district court,

*Judge Tacha, Judge McConnell, and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

ORDERED that the motion for summary affirmance of the federal defendants be granted in part and denied in part. The claims for money damages against the federal/agencies and the federal defendants in their official capacities are barred by sovereign immunity. *See FDIC v. Meyer,* 510 U.S. 471, 477-78 (1994); *Clark v. Library of Congress,* 750 F.2d 89,103 & n.31 ,104 (D.C. Cir.1984). It is

FURTHER ORDERED that the motion for summary affirmance of the Virginia state defendants be granted in part and denied in part. The claims for money damages against the Virginia state agencies and the Virginia state defendants in their official capacities are barred by the Eleventh Amendment. *See Edelman v. Jordan,* 415 U.s. 651, 663 (1974); *Aliv. Dist. of Columbia,* 278 F.3d 1,6 (D.C. Cir. 2002). The claims for money damages against the Virginia prosecutors and counsel who prosecuted disciplinary proceedings against Plaintiff-Appellant, in their individual capacities, are barred by prosecutoriat immunity. *See Imbler v. Pachtman,* 424 U.S. 409, 431 (1976); *Hirsh v. Justices of Sup. Ct.,* 67 F.3d 708, 715 (9th Cir. 1995). It is

FURTHER ORDERED, on the court's own motion, that the district court's judgment in favor of the Editor in Chief, Legal Times, be summarily affirmed. Plaintiff-appellant has failed to state a claim against this defendant. It is

FURTHER ORDERED, on the court's own

motion, that the court's reference in its December 19, 2007, order to the "federal and state judge defendants" who are entitled to judicial immunity against claims for money damages, be clarified as including those Virginia state defendants who were involved in adjudicating bar disciplinary proceedings against Plaintiff-Appellant.

The Clerk is directed to enter a briefing schedule with respect to all remaining claims.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate pending resolution of the remainder of the appeal.

Per Curiam

FOR THE COURT:

BY: Deputy Clerk

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
No. 07-5234

Isidoro Rodriguez, Appellant
v.
Editor in Chief, Legal Times, Individually and in his corporate capacity, et al., Appellees

September Term, 200707cv00975

Filed On: December 19, 2007

BEFORE: Tacha, McConnell and Gorsuch, Circuit Judges*

ORDER

Upon consideration of (1) appellant's emergency motion for a preliminary injunction; (2) appellant's emergency motion for. expedited consideration of motion for preliminary injunction; (3) appellant's supplemental brief in support of emergency motion for the issuance of preliminary injunction; (4) appellant's second supplemental brief in support of emergency motion for the issuance of a preliminary injunction; (5) appellant's praecipe and letter in support of motion for expedited consideration of the July 10, 2007 motion for a

*Judge Tacha, Judge McConnell, and Judge Gorsuch are judges of the United States Court of Appeals for the Tenth Circuit, sitting by designation pursuant to 28 U.S.C. § 291(a).

letter in support of motion for expedited consideration of the July 10, 2007 motion for a preliminary injunction against the Committee on Admissions for the District of Columbia Court of Appeals, Virginia State Bar, and the Supreme Court of Virginia; (6) appellant's motion to disqualify Assistant Commonwealth Attorney Catherine Crooks Hill; (7) appellant's motion to order the empaneling of a grand jury and appoint a special prosecutor; (8) appellant's motion to disqualify the judges of the Court of Appeals of the District of Columbia Circuit; (9) Virginia state defendants' motion for summary affirmance; (10) federal defendants' motion for summary affirmance; (11) Committee on Admissions of the District of Columbia Court of Appeals's motion for summary affirmance; (12) all responses and replies to the above-listed filings; and (13) the record of the United States District Court for the District of Columbia, it is

ORDERED that appellant's emergency motion for a preliminary injunction be denied. Appellant has failed to show that he meets the standards for an injunction pending appeal. *See Wash. Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977). It is

FURTHERORDERED that appellant's emergency motion for expedited consideration of the motion for preliminary injunction be dismissed as moot. It is

FURTHER ORDERED that appellant's

motion to disqualify Assistant Commonwealth Attorney Catherine Crooks Hill be denied. It is

FURTHER ORDERED that appellant's motion to order the empaneling of a grand jury and appoint a special prosecutor be denied. It is

FURTHER ORDERED that appellant's motion to disqualify the judges of the Court of Appeals of the District of Columbia Circuit be dismissed as moot because Chief Justice John G. Roberts, Jr. designated the judges of this special panel, each of whom sit outside of the United States Court of Appeals for the District of Columbia Circuit, to hear and decide this appeal. It is

FURTHER ORDERED that the motion for summary affirmance of the Committee on Admissions of the District of Columbia Court of Appeals be granted in part and the district court's dismissal of damages claims against this defendant be summarily affirmed. Summary disposition of this question is appropriate because the merits are so clear as a matter of law that no substantial question regarding its disposition exists. *See Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The Committee on Admissions of the District of Columbia Court of Appeals is entitled to absolute judicial immunity against damages claims when acting within its jurisdiction. *See Simons v. Bellinger*, 643 F.2d 774 (D.C. Cir. 1980); *see also Dist. of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 479 (1983) (holding that bar admission proceedings were

judicial in nature). It is

FURTHER ORDERED that the motions for summary affirmance of the federal defendants and the Virginia state defendants be granted in part and the dismissal of all damages claims against federal and state judges be summarily affirmed, with one exception. Summary disposition of these claims is appropriate because the merits are so clear as a matter of law that no substantial question regarding its disposition exists. *See Taxpayers Watchdog, Inc.*, 819 F.2d at 297. The district court correctly determined that appellant's damages claims against all federal and state judge defendants are barred by absolute judicial immunity because appellant's challenges clearly concern acts committed within those defendants' judicial jurisdiction. *See Mireles v. Waco*, 502 U.S. 9, 10-12 (1991); *Stump v. Sparkman*, 435 U.S. 349 (1978). The sole exception is appellant's damages claims against Chief Justice John G. Roberts, Jr. relating to alleged statements during the Chief Justice's confirmation hearing before the United States Senate, which do not stem from a judicial function. It is

FURTHER ORDERED, on the court's own motion, that within thirty (30) days of the date this Order is filed, appellant shall show cause why this appeal shall not be summarily affirmed on grounds other than those relied upon by the district court: (1) as to the Virginia state defendants, on alternative grounds raised in the district court, *see* R. Doc. 9 at 4 (Eleventh Amendment immunity, abstention, the *Rooker-Feldman* doctrine, and/or

prosecutorial immunity); and (2) as to defendant Editor in Chief, Legal Times, on alternative grounds raised in the district court, *see* R. Doc. 21 at 8-13 (that the action is time-barred under the applicable statutes of limitations and/or the complaint fails to state a claim against this defendant); and (3) as to the federal defendants, on the jurisdictional ground of sovereign immunity.

The show-cause response may not exceed twenty (20) pages. Failure to comply with this order will result in dismissal of the appeal for lack of prosecution. *See* D.C. Cir. R. 38.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate pending resolution of the remainder of the appeal.

Per Curiam
FOR THE COURT:
Mark J. Langer, Clerk
BY: Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ISIDORO RODRIGUEZ,	)
Plaintiff,	)
v,	) Civil Action No. 07-0975 (PLF)
LEGAL TIMES, et al.,	)
Defendants.	)

ORDER

This matter is before the Court on plaintiff's motion for reconsideration of this Court's Memorandum Opinion and Order dated June 18, 2007. A motion to alter or amend judgment under Rule 59(e) is discretionary with the court and need not be granted unless the Court finds that there is "an intervening change of controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." Ciralski v. Central Intelligence Agency, 355 F.3d 661, 671 (D.C. Cir. 2004) (quoting Firestone v. Firestone, 76 F.3d1205, 1208 (D.C. Cir. 1996)); see also Long v. Department of Justice, 479 F. Supp. 2d 23, 25(D.D.C. 2007). Rule 59(e) motions to alter or

amend judgment are "not to be used to relitigate matters already argued and disposed of; they are intended to permit the court to correct errors of fact appearing on the face of the record, or errors of law." Independent Petroleum Ass'n of America v. Babbitt, 178 F.R.D. 323, 324 (D.D.C. 1998); see Niedermeier v. Office of Max S. Baucus, 153 F. Supp. 2d 23, 28 (D.D.C. 2001) (Rule 59(e) motion may not be used to "relitigate old matters, or to raise new arguments or present evidence that could have been raised prior to the entry of judgment."). Such motions are "disfavored and relief from judgment is granted only when the moving party establishes extraordinary circumstances." Id. Accordingly, it is hereby

ORDERED that plaintiff's motion for reconsideration [31] is DENIED. This is a final appealable order. See FED. R. APP. P. 4(a). It is

FURTHER ORDERED that plaintiff's motion to disqualify [32] is DENIED as moot, in light of this fact that this case is closed.

SO ORDERED.

/s/
PAUL L. FRIEDMAN
United States District Judge

DATE: June 25, 2007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ISIDORO RODRIGUEZ,	)
Plaintiff,	)
v,	) Civil Action No. 07-0975 (PLF)
LEGAL TIMES, et al.,	)
Defendants.	)

MEMORANDUM OPNION AND ORDER

Pro se plaintiff Isodoro Rodriguez has filed a 76 page Complaint against numerous defendants: the Editor in Chief of the Legal Times; the Editor in Chief of the Washington Post; Chief Justice John Roberts; Chief Justice of the Virginia Supreme Court Leroy Hassell; the Supreme Court of Virginia; Karen Ann Gould, Esq., the President of the Virginia State Bar; the Virginia State Bar; Noel Sengel, Senior Assistant Bar Counsel for the Virginia State Bar; James Leroy Banks, Jr., Esq., First Vice Chair of the Virginia State Bar Disciplinary System; William Carlyle Boyce, Esq., William Ethan Glover, Esq., Glenn M. Hodge, Esq., and Stephen A. Wannall, Panel Members of the Virginia State Bar

Disciplinary System; Davis J.Gogal, Esq., Daniel Rathbun, Esq., Edward O'Connor Jr., Esq., and John W. di Zerega, Members of the Subcommittee or the 5th District Committee of the Virginia State Bar; the Office of the Attorney General for the Commonwealth of Virginia; Catherine Crooks Hill, Esq. of the Office of the Attorney General for the Commonwealth of Virginia; the Court of Appeals of Virginia; the Fairfax County Circuit Court; the Fairfax County J&D District Court; Judge Thomas Mann of the Fairfax County J&D District Court; Judge Richard W. Roberts of this Court; Chief Judge Jane A. Restani of the United States Court of International Trade; Chief Judge Paul R. Michel of the United States Court of Appeals for the Federal Circuit; Judge William H. Stafford Jr. of the United States District Court for the Northern District of Florida; Judge T.S. Ellis III of the United States District Court for the Eastern District of Virginia; the United States Department of Justice; the Office of the Solicitor General of the United States; Alberto Gonzalez, the Attorney General of the United States; Paul McNulty, the Deputy Attorney General of the United States and former United States Attorney for the Eastern District of Virginia; the United States Attorney's Office for the Eastern District of Virginia; the United States Attorney's Office for the District of Columbia; Marina Utgoff Braswell, an Assistant United States Attorney in the District of Columbia; the Director of the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice; the Federal Bureau of Investigation; the United States Department of State; United States Secretary of

State Condoleeza Rice; the Legal Advisor for Consular Affairs at the State Department; the Director of the Office of Children [*sic*] Issues of the Bureau of Consular Affairs at the State Department; the National Center for Missing and Exploited Children; the Supreme Court of the United States; the United States Court of Appeals for the District of Columbia Circuit; the United States Court of Appeals for the Fourth Circuit; the United States District Court for the District of Columbia; the United States District Court for the Eastern District of Virginia; Ernie Allen, the President and Chief Executive Officer of the National Center for Missing and Exploited Children; the Board of Directors of the National Center for Missing and Exploited Children; Nancy Hammer of the National Center for Missing and Exploited Children; Susan Brinkerhoff; Proskauer Rose LLP; Stephen J. Cullen; Miles & Stockbridge LLP; Patrick H. Stiehm; Covington & Burling; Eric H. Holder, Jr., Esq.; D. Jean Veta; the Committee on Admissions of the District of Columbia Court of Appeals; and John Does 1-20.

Plaintiff lists thirteen causes of action, including: (1) civil RICO; (2) "For Violation of Due Process, Equal Protection, and Access to the Federal and Virginia Courts (Fifth and Fourteenth Amendments)"; (3) "Denial of Right to Petition the Government and Privacy (First and Ninth Amendments)"; (4) "Violations of 42 U.S.C. § 1983, and §§ 241 and 242: Deprivation of Parental Rights"; (5) "Violations of 42 U.S.C. § 1983, and 18 U.S.C. § 4, 241, 242, 371, 1001, and 1204: Obstruction of parental rights depravation of rights as an

attorney"; (6) "Violation of 42 U.S.C. § 1983 (Denial of Due Process and Equal Protection Clauses)"; (7) "Violation of 42 U.S.C. § 1985(3) and VA Code (conspiracy)"; (8) "Violations of 42 U.S.C. § 1986, Refusing or neglecting or failing to protect and prevent the wrongs conspired to be done to obstruct parental rights of visitation and punish in violation of 18 U.S.C. §§ 241 and 242"; (9) Intentional Infliction of Emotional Distress; (10) Business Conspiracy under Va. Code §§ 18.2-499 and 500"; (11) Common Law Conspiracy; (12) the Federal Tort Claims Act; and (13) the Virginia Tort Claims Act, VA Code §§ 8.01-195.1-195.9.

The gravamen of plaintiff's complaint in this case appears to be that he is seeking a temporary restraining order and/or a preliminary injunction "to enjoin the Supreme Court of Virginia, the Virginia State Bar's *void*, [sic] and the Committee on Admissions of the District of Columbia Court of Appeals refusal to either process Rodriguez-father's application on file since July 21, 2005, or grant a hearing . . . ." Complaint ¶ 9. Plaintiff was involved in a custody dispute related to his son, who is a resident of Colombia. See id. ¶¶ 74-86. Plaintiff was a defendant in a lawsuit brought by the mother of his son in the United States District Court for the Eastern District of Virginia, which he litigated all the way to the Supreme Court. See id. ¶¶ 8791. Plaintiff filed a previous lawsuit in this Court before Judge Richard W. Roberts, which he litigated through a petition for certiorari to the Supreme

Court. See id. ¶¶ 92-94, 105.[1] Judge Roberts summarized some of the previous legal proceedings in Rodriguez v. National Center for Missing & Exploited Children, Civil Action No. 03-0120, 2005 WL 736526, *2-3 (D.D.C. March 31, 2005), *aff'd sub nom* In re: Rodriguez, 2005 WL 3843612 (D.C. Cir. Oct 14, 2005), *cert. denied*, 126 S.Ct. 1902 (2006). See also Virginia State Defendants' Response to Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction ("Opp.") at 2 (citing previous litigation). Plaintiff has also litigated related events in the courts of the Commonwealth of Virginia. See Complaint ¶¶ 107-127.

Plaintiff alleges that he has been a member of the Bar in Virginia since 1982. See Complaint ¶ 150. Plaintiff applied to waive into the District of Columbia bar in July 2005. See id. Two Virginia State Bar complaints were filed against the plaintiff in 2004, and disbarment proceedings followed. See Order of Virginia State Bar Disciplinary Board, Exh. 2 to Plaintiff's Motion for a Temporary Restraining Order and a Preliminary Injunction ("Mot."); see also Complaint ¶¶ 144-176. This lawsuit arises from these disbarment proceedings. See Mot. at 1-2.

The Attorney General of Virginia has entered an appearance, and filed an opposition to plaintiff's motion for a temporary restraining order and preliminary injunction, on behalf of following

---

[1]It appears that at least some of the causes of action and defendants were the same in plaintiff's prior lawsuit in this Court as in this lawsuit.

defendants: the Supreme Court of Virginia; the Court of Appeals of Virginia; Chief Justice of the Virginia Supreme Court Leroy Hassell; Karen Ann Gould, Esq., the President of the Virginia State Bar; Noel Sengel, Senior Assistant Bar Counsel for the Virginia State Bar; James Leroy Banks, Jr., Esq., First Vice Chair of the Virginia State Bar Disciplinary System; William Carlyle Boyce, Esq., William Ethan Glover, Esq., Glenn M. Hodge, Esq., and Stephen A. Wannall, Panel Members of the Virginia State Bar Disciplinary System; Davis J. Gogal, Esq., Daniel Rathbun, Esq., Edward O'Connor Jr., Esq., and John W. di Zerega, Members of the Subcommittee of the 5th District Committee of the Virginia State Bar; the Office of the Attorney General for the Commonwealth of Virginia; Catherine Crooks Hill, Esq. of the Office of the Attorney General for the Commonwealth of Virginia; the Fairfax County Circuit Court; the Fairfax County Juvenile and Domestic Relations District Court; and Judge Thomas Mann of the Fairfax County J&D District Court (hereinafter "Virginia State Defendants"). Plaintiff filed a reply brief in support of the issuance of a temporary restraining order and preliminary injunction ("Reply").

As counsel for the Virginia State Defendants points out, there are numerous problems with this lawsuit apparent from the face of plaintiff's complaint. The Virginia State Defendants note, among other things, that judges are immune from suit. See Opp. at 2. This is correct. Judges and other court officials have absolute immunity for

their actions taken in a judicial or quasi-judicial capacity. See Stump v. Sparkman, 435 U.S. 349, 356 (1978); Sindram v. Suda, 986 F.2d 1459, 1460 (D.C. Cir. 1993) (per curiam); Moore v. Motz, 437 F. Supp. 2d 88, 91 (D.D.C. 2006) ("Absolute judicial immunity provides immunity from suit as well as from the ultimate imposition of damages.") (citing Mirales v. Waco, 502 U.S. 9, 11 (1991)). The only allegations in the Complaint regarding any of the judges describe acts undertaken in their judicial capacities. Accordingly, the Court will dismiss from this suit all judges named as defendants.

This suit will fail because venue is improper in the District of Columbia. "A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated[.]" 28 U.S.C. § 1391. Venue in this case does not lie in the District of Columbia. See Naartex Consulting Corp. v. Watt, 722 F.2d 779, 789 (D.C. Cir. 1983). This action arises from disbarment proceedings in Virginia. See Mot. at 1-2. It therefore will be dismissed without prejudice to its being refiled in an appropriate court in Virginia, if there is such a court.[2]

Accordingly, it is hereby

---

[2]It appears that plaintiff has already challenged his disbarment in the Virginia courts. See Mot. at 5-6

ORDERED that the defendant judges are DISMISSED from this lawsuit; it is FURTHER ORDERED that the remainder of this case is DISMISSED without prejudice for improper venue; and it is

FURTHER ORDERED that the pending motion for a temporary restraining order and a preliminary injunction [3] therefore is DENIED; the pending motion to request the Attorney General of the United States to appoint a special prosecutor [4] also is DENIED; and plaintiff's second motion for a temporary restraining order [22] also is DENIED. The Clerk of the Court shall remove this case from the docket of the Court. This is a final appealable order. See FED. R. APP. P. 4(a). Any other pending motions are denied as moot.

SO ORDERED.

DATE: June 18, 2007

_____/s/_____

PAUL L. FRIEDMAN

United States District Judge

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday *the* 29th *day of* June, 2007.

Isidoro Rodriguez, Esq.

Appellant,

v. Record No. 070283

VSB Docket Nos. 04-052-0794

And 04-052-1044

Virginia State Bar,

Appellee.

Upon an appeal of right from an order entered by the Virginia State Bar Disciplinary Board.

Upon consideration of the record, briefs, and arguments by appellant, in proper person, and by counsel for the appellee, the Court is of the opinion that there is no error in the order of the Virginia State Bar Disciplinary Board (the "Board") revoking Isidoro Rodriguez's license to practice law in the Commonwealth of Virginia based upon finding that he violated Rules 1.2, 1.5, 1.7, 1.16, 3.1, 3.4, 3.7, 4.4, 7.1 and 8.4 of the Virginia Rules of Professional Conduct.

> In reviewing the Board's decision in a disciplinary proceeding, we conduct an independent examination of the entire record. We consider the evidence and all reasonable inferences that may be drawn from the evidence in the light most favorable to the Bar the prevailing party in the Board proceeding. We give the Board's factual finding substantial weight and view them as prima facie correct. While we do not give the Board's conclusions the weight of a jury verdict, we will sustain those conclusions unless it appears they are not justified by reasonable view of the evidence or are contrary to law. Barrett v. Virginia State Bar, 269 Va. 583, 587-88, 611 S.E.2d 375, 377 (2005) (quoting Williams v. Virginia State Bar, 261 Va. 258, 264, 542 S.E.2d 385, 389 (2001) (citations omitted); see also El-Amin v. Virginia State Bar, 257 Va. 608 612, 514 S.e.2d 163, 165 (1999); Myers v. Virginia State Bar, 226 Va. 630, 632, 312 S.E.2d 286, 287 (1984).

In making its determination, the Board considered allegations that Rodriguez violated the Rules of Professional Conduct during litigation involving two sets of cases. One group of cases involving Rodriguez's relationship and work with Sea Search Armada. The other group involved custody litigation regarding his son. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules 1.2(a), 1.5(a), 1.16(a)(3), 3.4(I), 7.1(a), and 8.4(b) and (c) in his

relationship with and representation of Sea Search Armada, including his attempts to recover unpaid attorney's fees. The Virginia State Bar proved by clear and convincing evidence that Rodriguez violated Rules1.7(b), 3.1, 3.4(d)(h)(i)(j), 3.7(a), 4.4, and 8.4.

We independently review each of the alleged Rule violations and find no error in the Board's order. Accordingly, the order appealed from is affirmed.

Appellant shall pay to the appellee thirty dollars damages.

This order shall be certified to the Virginia State Bar Disciplinary Board.

A Copy,

Teste: /S/

Patricia L. Hanninton, Clerk

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF ISIDORO RODRIGUEZ

VSB DOCKET NOS. 04-052-0794 and 04-052-1044

ORDER OF VIRGINIA STATE BAR DISCIPLINARY BOARD

THIS MATTER came on to be heard on the 26th and 27th days of October, 2006, before a panel of the Disciplinary Board consisting of James L Banks, Jr., 1st Vice-Chair, presiding,(the "Chair"), William C. Boyce Jr, Glenn M. Hodge, William F. (Hover, and Stephen A. Wannall, Lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Noel D. Sengel, Senior Assistant Bar Counsel. The Respondent, Isidro Rodriguez, appeared in person and represented himself. The Chair polled the members of the Board Panel as to whether any of them was aware of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member; including the Chair, responded in the negative. Donna T. Chandler, RPR, RMR, CCR of Chandler & Ralasz, court reporter. P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222) after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on the Subcommittee Determination (Corrected Certification) by the Fifth District Committee

Section II.

At the beginning of the proceedings the Respondent renewed his motion for the members of the panel to disqualify themselves as being interested patties for the reasons stated in his written motion previously filed. Upon consideration of this motion it was denied by the Panel for the reasons previously stated in the Board's Order of August 8,2006 that originally addressed Respondent's Motion to Recuse and Disqualify Members of the Disciplinary Board Within the Jurisdiction of N. Virginia and the U.S. Dist. Ct. for the RD. of Va. so to Assure Impartiality.

FINDINGS OF FACT

VSB Exhibits 1-92 were admitted during the course of the hearing without objection. The Respondent's Exhibits 1-42 were admitted during the course of the hearing without objection or over Bar counsel's objection. The VSB presented evidence through its witnesses, the Respondent cross-examined the witnesses and thereafter testified on his own behalf. After consideration of the exhibits and the testimony the Board makes the following findings of fact on the basis of clear and convincing evidence:

VSB No. 04-052-0794

1. At all times relevant hereto, Isidoro Rodriguez, hereinafter the "Respondent", has been an attorney licensed to practice law in the Commonwealth of Virginia and his address of record with the Virginia State Bar has been 7924 Peyton Forest Trail, Annandale, VA 22003-1560. VSB Ex.

1. The Respondent received paper notice of this proceeding as required by Part Six, IV, 13 (E) and (I)(a) of the Rules of Virginia Supreme Court. VSB Ex. 2.

2. The Complainant, Jack Harbeston, hereinafter referred to as "Harbeston", was the managing director of Sea Search Armada ("SSA") a Cayman Island entity that invests in and conducts searches for sunken treasure ships and engages in the salvage and the recovery of their contents. Sometime prior to 1988 SSA had discovered what it thought to be the remains of sunken Spanish ships off the coast of Colombia. SSA had been unable to have its rights to any sunken treasure recognized by the government of Columbia and was looking for legal representation in Colombia to assert its claims. Harbeston sought assistance from the Economic Officer at the United States Embassy in Bogota, Colombia for names of attorneys who could represent SSA The Economic Officer provided Harbeston with a list of attorneys in Colombia which included the Respondent as a member of the partnership of Devis and Rodriguez. Harbeston subsequently contacted the Respondent regarding

possible legal representation. In his conversation with the Respondent, Harbeston learned that Devis, a Colombian attorney, would handle any litigation on behalf of SSA in the Colombian courts. Harbeston was looking for an American attorney, if possible, because of his concerns as to the potentially divided loyalty of a Colombian attorney. In correspondence between the Respondent and Harbeston, Respondent noted that he was the only attorney licensed in the United States working in Colombia and as such his firm was subject to the same standards as law firm in the United States; that unlike any other firm in Colombia his firm "must comply with the State of Virginia Bar Association's Ethics of Professional Responsibility." VSB Ex. 4.

3. SSA subsequently hired the firm of Devis and Rodriguez. By agreement dated October 20, 1988, the parties entered into a representation agreement prepared by Rodriguez which set forth the terms of the engagement including a fee arrangement on an hourly basis that had been discussed prior to the execution of the agreement. VSB Ex. 7. By affidavit dated October 21, 1988, Harbeston, as managing Director of SSA, authorized the law firm of Devis and Rodriguez to act as SSA's legal representative to pursue its claims in Colombia.

4. In order for SSA to proceed with its claims in Colombia, SSA was required to appoint an agent with broad powers to represent SSA. By agreement dated December 16, 1988, executed in the District of Columbia, SSA appointed the Respondent as its

legal representative in Colombia. Respondent's Ex. 8. However, Harbeston and SSA were concerned with the scope of the general power of attorney appointing Rodriguez as its agent in Colombia (Respondent's Ex. 8) and sought to limit his authority by advising the Respondent that he could only act upon the written authorization of Harbeston. By letter dated December 14, 1988, the Respondent acknowledged this limitation on his authority, noting that any violation of the restriction "will result in an action before The Virginia Bar Ethics Committee". VSB Ex. 9. By memorandum dated December 13, 1988, Harbeston advised all law firms employed by 58.4, including Devis and Rodriguez, that John Erlichman would coordinate and manage all litigation by SSA. VSB Ex. 8.

5. By letter dated January10, 1989 SSA authorized Respondent as its legal representative in Colombia to file a lawsuit against the Republic of Colombia to confirm its rights to the sunken ships. VSB Ex. 12. Thereafter, Devis proceeded to pursue SSA's claims in the courts of Colombia with apparent skill and professionalism to the satisfaction of SSA. Harbeston soon became dissatisfied with the Respondent's performance because of actions he took without written authorization but nevertheless continued the representation arrangement because of his satisfaction with Devis' performance as a litigator. By memorandum to Respondent dated June 9, 1989, (VSB Ex. 13) Harbeston reaffirmed that Respondent was to take no action on behalf of SSA without

Harbeston's written authorization as Respondent had acknowledged by his December 14,1988 letter. Sometime thereafter, but prior to January 1990, the law firm of Rodriguez and Devis had dissolved but Devis continued to represent SSA in its ongoing litigation against the Republic of Colombia. By agreement dated January 3, 1991, Respondent, acting as attorney for SSA, entered into a professional services agreement with Devis to continue with the litigation on behalf of SSA against the Republic of Colombia. This agreement changed the fee arrangement to a contingency fee arrangement whereby Devis would receive 20% of any recovery. VSB Ex. 14. Devis and the Respondent then entered into an agreement to share any contingent fee recovery.

6. By request dated January 3, 1990, the Respondent sought a legal ethics opinion from the VSB that as a Virginia attorney who had entered into a contract in Idaho to be performed in a foreign country, whether he could terminate his representation because the client had failed to pay his fee and could sue the client to collect such a fee. The VSB Ethics Committee gave its opinion on the issue (LEO 1325) that under the facts presented, the Respondent could terminate his representation and sue the client for fees, with the opinion concluding with the customary notice that it was an advisory opinion and not binding on any court. VSB Ex. 18.

7. Devis continued the litigation successfully as the case made its way through the Colombian judicial system as the Colombian government

appealed each adverse decision. Respondent does not appear to have played any role in the litigation. By letter dated March 24,2000 Devis advised Respondent not to use his name in Respondent's professional activities, and that Harbeston was upset with Respondent's activities and wanted to revoke the power of attorney. VSB Ex. 15. Devis acknowledged he would honor their contingent fee sharing arrangement By letter dated April 6,2000, Harbeston revoked the general power of attorney from SSA to Respondent (which he had forgotten to do earlier), stating that neither SSA nor its related entities owed Respondent any legal fees and that any understanding relating to fees was in the agreement between Devis and Respondent to share any contingency fee. VSB Ex. 16.

8. In September of 2000 the Respondent filed suit against SSA in the United States District Court for the Eastern District of Virginia seeking to enforce a claim for attorney's fees in the amount of $4.5 million against SSA. VSB Ex. 19, The Respondent testified that he based the amount of his attorney's fee claim on the annual salary ($300,000 to $400,000) of a legal representative of a United States company in a foreign land for a period of 12 years. Included as defendants in this litigation were Harbeston, related entities to SSA and Devis. None of the defendants were residents of the Commonwealth of Virginia. The Respondent basis for jurisdiction by the federal court in Virginia was the fact that he was a Virginia attorney, Virginia Code Section 54.1-3932 grants an attorney a lien for fees and LEO 1325 which said he could

sue his client. The defendants in this litigation obtained the services of Harrison Pledger, a Virginia attorney, who filed a motion to dismiss based on the lack of personal jurisdiction over the defendants. This motion was granted and the suit was dismissed. The Respondent then appealed to the Fourth Circuit Court of Appeals and that court affirmed the District Court's ruling. The Respondent then petitioned for a Writ of *Certiorari* in the United States Supreme Court but that petition was denied.

9. After the denial of The Writ of Certiorari by the United States Supreme Court the Respondent filed a slightly different law suit in the United States District Court for the Eastern District of Virginia against the defendants in the earlier suit and also added several other defendants who were investors in SSA or related entities. VSB Ex. 20. The District Court dismissed this second law suit, finding that the Respondent had failed to plead additional facts to the first suit to give the court personal jurisdiction over any of the defendants. This ruling was affirmed on appeal to the Fourth Circuit The Respondent then sought a Writ of *Certiorari* from the United States Supreme Court which was also denied.

10. While the appeal of the second lawsuit was pending, the Respondent filed a third similar lawsuit - this time in the Circuit Court of Fairfax County against SSA. In this third lawsuit the Respondent named the defendants in the second law suit and Harrison Pledger and his law firm as defendants. VSB Ex. 21. This law suit was also

dismissed but the court denied the defendants' motions for sanctions.

11. The Respondent created a website which displayed false and misleading information regarding his relationship with SSA and his participation in the litigation in Colombia. VSB Ex 24 & 25. On the site, the Respondent claimed that in 1988, at the request of the United States Department of State, he became SSA's legal representative and managing attorney responsible for managing alternative dispute resolution negotiations and outside counsel in litigation against the government of Colombia, posts he claims he held until 2000. These assertions are not true. Onhis resume, the Respondent listed a LLM Civil law degree from the University of Bordeaux. While the Respondent attended a class at the University of Bordeaux, he never received a degree from that university. The Respondent also listed an American Trial Lawyers Ultimate Trial Lawyer Certification. There is no such certification. The basis for Respondent's claim is the fact that he attended a one week continuing legal education program sponsored byte Association of Trial Lawyers of American titled "Ultimate Trial Advocacy".

12. Respondent, in 2004,while communicating with the U.S. State Department regarding Freedom of Information Act ("FOIA") requests he had made for information relating to SSA litigation, represented that he was the attorney for SSA notwithstanding the fact that Harbeston

had revoked his authority in 2000. VSB Ex. 23. Respondent claimed that since the power of attorney filed with the Colombian government had never been terminated he was not making a misrepresentation in his FOIA request.

VSB Docket No. 04-502-1044

1. The Respondent lived for many years in Colombia and had married Amalin Hazbun Escaf a citizen of Colombia. One son was born of the marriage. The marriage ultimately ended in a divorce in Colombia with the wife/mother obtaining custody of the son by order of a Colombian court with visitation rights to the Respondent.

2. The Respondent subsequently returned to the United States where he has been living and hisson visited him pursuant to the visitation rights granted by the Colombian Court. In 2001 while the son was visiting the Respondent the Respondent refused to return his son to Colombia and filed an action in the Juvenile and Domestic Relations Court in Fairfax County to gain custody of his son.

3. In 2001, subsequent to the filing of Respondent's suit in the Juvenile and Domestic Relations Court in Fairfax County, Respondent's ex-wife filed an action in the United States District Court for the Eastern District of Virginia, under the Hague Convention on the Civil Aspects of Child Abduction (the "Hague Convention") and the International Child Abduction Remedies Act ("ICARA") in order to secure the return to Colombia

of her son. VSB Ex. 34. In this litigation she was represented by Patrick Stiehm, a Virginia attorney who had undertaken this representation *pro bono* at the request of the National Center for Missing and Exploited Children ("NCMEC"). NCMEC is a non profit corporation that acts as a neutral in facilitating the processing of claims under the Hague Convention and ICARA. When Stiehm initially contacted Respondent to inform him of the pending litigation, Respondent told Stiehm that his *pro bono* representation would cost Stiehn "a big chunk of change." In keeping with this threat, Respondent immediately filed a motion for sanctions against Stiehn (VSB Ex. 35) but that motion was denied. VSB Ex. 38. However, Respondent's subsequent litigation described herein, which included Stiehm as a defendant, resulted in Stiehm incurring significant legal expenses to respond to meritless and vexatious litigation.. After a bench trial the Court ruled that the Respondent had kept the child in Virginia in violation of his ex-wife's custody rights. VSB Ex. 39. The Court ordered that the child be removed from the Respondent's custody and returned to the child's mother in Colombia The Respondent's appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court were denied. After all appeals and stays were denied the son was reunited with his mother and left for Colombia in June of 2002.

4. In January of 2003, the Respondent filed suit in the District Court for the District of Columbia against numerous defendants, including

NCMEC, several employees of NCMEC, the United States District Court for the Eastern District of Virginia, the Fourth Circuit Court of Appeals, the Circuit Court of Fairfax County, the Court of Appeals of Virginia, the District Court for the District of Columbia, the United States Court of Appeals for the District of Columbia, various judges, a court clerk, the United States Department of State, Patrick Stiehm and Stephen Cullen (an attorney who had assisted Stiehm in the Virginia litigation) claiming a constitutional conspiracy by the defendants against him in his litigation in Virginia. VSB Ex. 43. Staff members of NCMEC had been witnesses in the Virginia litigation and NCMEC had provided legal representation to witnesses in the litigation in Virginia. In filing this litigation in which Respondent and his son were named as plaintiffs, Respondent who is not licensed to practice in the District of Columbia and had not obtained an order to appear *pro hoc vice*, attempted to act as attorney for his son.

5. In March of 2003, the Respondent filed a Writ of Mandamus in an attempt to compel NCMEC to take actions to force the country of Colombia to grant the Respondent access to his son. VSB Ex. 64. By letter dated September 24,2003, Warren L. Dennis, Esquire, counsel for NCMEC, informed the Clerk of the United States Supreme Court that NCMEC would not be filing a responsive brief to the Respondent's Writ because, inter alia, it had no power to compel the government of the country of Colombia to do anything. VSB Ex. 65. Upon receipt of a copy of the letter, the Respondent called Mr.

Dennis's office and left a voice mail message in which he threatened to file an ethics complaint because the letter falsely characterized the Respondent's Virginia litigation. Also, by letter dated September 29,2003, the Respondent gave notice of his intent to file a judicial complaint and District of Columbia Bar complaint against those involved in the litigation unless facts already proved were proved within twenty-four (24) hours. VSB Ex 67.

6. In the District of Columbia litigation the Respondent repeatedly filed pleadings with no basis in law or fact. VSB Ex. 43 - 81. In an amended complaint (VSB Ex. 72) Respondent asserted a claim under the Racketeer Influenced and Corrupt Organization Act (RICO) 18 U.S.C. 1961. Included as defendants in the complaint were the United States Supreme Court; the United States Court of Appeals for the Fourth Circuit; the United States Court of Appeals for the District of Columbia, the United States District Court for the Eastern Districtof Virginia, the United States District Court for the District of Columbia, the Virginia Supreme Court, the Court of Appeals of Virginia and the Circuit Court of Fairfax County. Respondent's actions in the D.C. litigation clearly demonstrates his use of the legal system to harass and intimidate anyone whom he considered to have been involved in the Virginia litigation that returned his son to Colombia and to re-litigate the Virginia case.

7. Respondent's actions in naming NCMEC and some of its employees as defendants in this

litigation cost NCMEC over $160,000 in legal expenses and nearly bankrupted the organization. Throughout the course of this litigation, the Respondent misrepresented his credentials as a lawyer and his license status in the District of Columbia and New York to the courts and opposing parties. The Respondent graduated from law school in 1976. He was first licensed to practice law in the Commonwealth of Virginia in 1982. Virginia is the only jurisdiction in which Respondent has a license to practice law. The Respondent listed a number of governmental and quasi governmental legal jobs in the District of Columbia on his resume between the years 1976 and 1982 requiring a valid law license in the United States, during which period he was not licensed to practice law anywhere in the United States. The Respondent also noted on various documents that he practiced law in the District of Columbia for a period of time after his licensure in Virginia, but has never been licensed in the District of Columbia.

8. During this litigation, the Respondent filed pleadings and attempted to represent his minor sonon several occasions in the District of Columbia litigation, despite the fact there was a conflict of interest between the father and son, despite the fact that the Respondent would be a witness in the case and despite the fact that the judge instructed the Respondent to cease representing his son. VSB Ex 48 & 50. The Respondent's law partner also attempted to represent the son but the court refused to permit that representation.

I. MISCONDUCT

The Certification for VSB Docket No. 04-052-0794 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.2 Scope of Representation

(a) A lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued. A lawyer shall abide by a client's decision, after consultation with the lawyer, whether to accept an offer of settlement of a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

RULE 1.5 Fees

(a) A lawyer's fee shall be reasonable. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer,

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

RULE 1.16 Declining Or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or where representation has commenced, shall withdraw from the representation of a client if:

(3) the lawyer is discharged.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(I) file a suit, initiate criminal charges, assert a position, conduct a defense, delay a trial, or take

other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 7.1 Communications And Advertising Concerning A Lawyer's Services

(a)A lawyer shall not, on behalf of the lawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication or advertisement violates this Rule if it:

(1) contains misleading fee information;

(2) states or implies that the outcome of a particular legal matter was not or will not be related to its facts or merits;

(3) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated;

(4) contains an endorsement by a celebrity or public figure who is not a client of the firm without disclosure (I) of the fact that the speaker is not a client of the lawyer or the firm, and (ii) whether the speaker is being paid for the appearance or endorsement; or

(5) contains a portrayal of a client by a non-client without a disclosure that the depiction is a dramatization.

In the determination of whether a communication or advertisement violates this Rule, the communication or advertisement shall be considered in its entirety including any qualifying statements or disclaimers contained therein.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving

dishonesty, fraud, deceit or misrepresentation;

The Certification for VSB Docket No. 04-052-1044 charges violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.7 Conflict of Interest: General Rule

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by

the lawyer's responsibilities to another client or to a

third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

RULE 3.1 Meritorious Claims And Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3 Candor Toward The Tribunal

(a) A lawyer shall not knowingly

(1) make a false statement of fact or law to a tribunal;

(2) fail to disclose a fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client, subject to Rule 1.6;

(3) fail to disclose to the tribunal controlling legal authority in the subject jurisdiction known to the lawyer to be adverse to the position of the client and not disclosed by opposing counsel; or

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity; the lawyer shall take reasonable remedial measures.

RULE 3.4 Fairness To Opposing Party And Counsel

A lawyer shall not:

(d) Knowingly disobey or advise a client to disregard a standing rule or a ruling of a tribunal made in the course of a proceeding, but the lawyer may take steps, in good faith, to test the validity of such rule or ruling.

(h) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

(I) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure

another. Effective January 1,2004

(j) Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter,

(k) File a suit, initiate criminal charges, assert a position, conduct a defense, delay a trail, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

RULE 3.7 Lawyer As Witness

(a) A lawyer shall not act as an advocate in an adversarial proceeding in which the lawyer is likely to be a necessary witness except where:

(1) the testimony relates to an uncontested issue;

(2) the testimony relates to the nature and value of legal services rendered in the case; or

(3) disqualification of the lawyer would work substantial hardship on the client.

RULE 44 Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that have no purpose other than to embarrass, delay; or burden a third person, or use

methods of obtaining evidence that violate the legal rights of such a person.

RULE 5.5 -Unauthorized Practice Of Law

(a) A lawyer shall not:

(1) practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction; or

(2) assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

RULE 7.1. Communications Concerning A Lawyer's Services

(a) A lawyer shall not, on behalf of thelawyer or any other lawyer affiliated with the lawyer or the firm, use or participate in the use of any form of public communication if such communication contains a false, fraudulent, misleading, or deceptive statement or claim. For example, a communication violates this Rule if it:

(1) contains false or misleading fee information; or

(2) states or implies that the outcome of a particular legal matter was not OR will not be related to its facts or merits; or

(3) compares the lawyer's services with other

lawyers' services, unless the comparison can be factually substantiated; or

(4) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law.

RULE 7.4 Communication Of Fields Of Practice And Certification

Lawyers may state, announce or hold themselves out as limiting their practice in a particular area or field of law so long as the communication of such limitation of practice is in accordance with the standards of this Rule, Rule 7.1, and Rule 7.3, as appropriate. A lawyer shall not state or imply that the lawyer has been recognized or certified as a specialist in a particular field of law except as follows:

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so

certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations. Effective Nov. 1,2002

(a) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation;

(b) A lawyer engaged in Admiralty practice may use as a designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation;

(c) A lawyer who has been certified by the Supreme Court of Virginia as a specialist in some capacity may use the designation of being so certified, e.g., "certified mediator" or a substantially similar designation;

(d) A lawyer may communicate the fact that the lawyer has been certified as a specialist in a field of law by a named organization, provided that the communication clearly states that there is no procedure in the Commonwealth of Virginia for approving certifying organizations.

RULE 8.4 Misconduct

It is professional misconduct for a lawyer to:

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer;

(c) engage in professional conduct involving dishonesty, fraud, deceit or misrepresentation; Effective Mar. 25, 2003

(b) commit a criminal or deliberately wrongful act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to practice law.

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

III. DISPOSITION

Upon review of the forgoing finding of facts, the exhibits presented by Bar Counsel on behalf of the VSB as Exhibits 1- 92, the exhibits presented by the Respondent as The Respondent's Exhibits 1-42, the evidence from witnesses presented on behalf of the VSB and evidence presented by the Respondent in the form of his own testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After deliberation the Board reconvened and stated that it had found by clear and convincing evidence that the Respondent had violated The following Rules of Professional Conduct: in Docket No. 04-052-0794, Rule 1.2(a); 1.5(a); 1.16(a)(3); 3.4(I); 7.1(a); 8.4(b) &

(c); in Docket No. 04-052-1044. Rule 1.7(b) 1-2; 3.1; 3.4 (d)(h)(i)(j); 3.7(a)(1-3); 4.4 and 8(b) and (c).

The Board stated that the Bar had failed toprove by clear and convincing evidence any violation of the following the Rules of Professional Conduct: 3.3(a)1-4; 5.5(a)1-2; 7.1(a)1-4; 7.4(a)(b)(c)(d); and effective Nov. 1, 2002 7.4(a)(b)(c)(d).

The bases for the Boards finding of violation of the Rules of Professional Conduct are as follows:

VSB Docket No. 04-052-0794

(a) The Respondent violated Rule 1.2(a) (Scope of Representation) in that his authorization to act on behalf of his client SSA was limited, but he nonetheless acted without written authorization from his client. Furthermore, after he had been discharged by SSA, he wrote the Department of State claiming to be the managing attorney of SSA, which was not the case. He also made a FOIA request without any authorization.

(b) The Respondent violated Rule 1.5(a) 1-8 (Fees) with his claim of a fee of 4.5 million dollars. Respondent acknowledged that the fee arrangement was a contingent fee arrangement and no recovery had been made. Therefore, there was no basis to claim a fee. Furthermore, the amount of the fee, $4.5 million, does not appear to have any reasonable relationship to work actually performed which is necessary for a recovery on a quantum merit basis.

Respondent testified that he determined the amount based upon what the salary would be for a legal representative for a U.S. company operating in a foreign country.

(c) The Respondent violated Rule 1.16 (a)(3) (Declining or Terminating Representation) by representing that he was SSA's managing attorneyin a FOIA request (VSB Ex. 23), which he made well after SSA had terminated their relationship.

(d) The Respondent violated Rule 3.4(I) (Fairness to Opposing Party and Counsel) by tiling the litigation in the United States District Court for the Eastern District of Virginia and the Circuit Court of Fairfax County, Virginia. It should appear to any reasonably competent lawyer that the courts did not have jurisdiction over the parties named as defendants. Even giving the Respondent the benefit of the doubt as to the first suit, he received a ruling that the court lacked personal jurisdiction over the defendants which was upheld on appeal. He nonetheless filed a second suit with the same infirmity seeking the same recovery. Furthermore, his suit in the Circuit Court of Fairfax County, Virginia, included as a defendant Harrison Pledger and his law firm, merely because Mr. Pledger had acted as defense counsel in the two suits in the federal court

(e) The Respondent violated Rule 7.1(a) 1-5 (Communication Concerning a Lawyer's Services) by misrepresentation on his website and resume.

VSB Exhibits 24 and 25 show that Mr. Rodriguez, on the website he created, misrepresented his relationship with SSA. He misrepresented what he did for SSA and how he became employed by SSA. He misrepresented his education by listing an LLM civil law degree from the University of Bordeaux. He improperly claimed a certification (the American Trial Lawyer Ultimate Trial Lawyer Certification) where no such certification exists.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) by representing in his FOIArequest that he was the managing attorney for SSA, when the evidence shows that he clearly was not.

VSB Docket No. 04-052-1044

(a) The Respondent violated Rule 1.7(b) 1-2 (Conflict of interest) in his attempt to represent his son in the District Court for the District of Columbia and his continued actions to do so even in the face of a court ruling that there was a conflict.

(b) The Respondent violated Rule 3.1 (Meritorious Claims and Contentions) by his litigation in the District Court for the District of Columbia and his actions in the Circuit Court of Fairfax County, Virginia. The complaint filed by the Respondent with all the parties he named as defendants standing alone shows that the Respondent has violated this Rule. The numerous pleadings filed thereafter further demonstrate that the Respondent's aim was to punish anyone who had

any connection with the litigation filed by his former wife to regain custody of their son. Any attorney who had in any way appeared in that litigation ended up being named as a defendant. NCMEC and several of its staff were named as defendants resulting in a legal cost to NCMEC alone of $160,090.00 Attorney Patrick Stiehm who had taken Respondent's ex-wife's case pro bono was named as a defendant thereby making good on Respondent's claim that Stiehm's representation would cost him a "big chunk of change."

Furthermore, in litigation in Fairfax County, Respondent subpoenaed two members of NCMEC as witnesses for a hearing involving his efforts to file a Statement of the Case for an appeal, when these two staff members had nothing to do with the Fairfax litigation. While the subpoenas were quashed they nevertheless had the effect of harassing the NCMEC staff members. Remarkably this is the only instance in which the Respondent was sanctioned by a court.

Perhaps if he had been sanctioned earlier, either by the United States District Court for the Eastern District of Virginia or the District Court for the District of Columbia, such action would have put a stop to Respondent's unwarranted and vexatious conduct. Unfortunately neither of the courts saw fit to impose sanctions.

(c) The Respondent violated Rule 3.4(d)(h(i)(j) (Fairness to Opposing Party and Counsel) by the following conduct: (1) by continuing

to attempt to represent his son in the District of Columbia litigation in the face of a court ruling, in violation of Rule 3.4(d); (2) by threatening the NCMEC attorney with a bar complaint and filing a criminal complaint with the FBI, in violation of 3.4(h); (3) by filing a motion for sanctions against Patrick Stiehm and naming Stiehm as a defendant in the District of Columbia litigation and by his entire course of conduct in the District of Columbia litigation, in violation of Rule 3.4(i)(j);

(d) The Respondent violated Rule 3.7(a) 1·3 (Lawyer as Witness) by acting as an advocate when he was a necessary witness in the Eastern District of Virginia litigation.

(e) The Respondent violated Rule 4.4 (Respect for the Rights of Third Persons) by the whole course of litigation in the District Court for the District ofColumbia. In addition, his subpoena of Ms. Brinkerhoff and Mr. Dennis to the Fairfax Circuit Court for a bearing on the Statement of Facts to be submitted for appeal further demonstrates a violation of this Rule.

(f) The Respondent violated Rule 8.4(b) and 8.4(c) (Misconduct) in asserting a RICO claim and by his letter to the FBI.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and the Respondent, including the Respondent's prior disciplinary record. The Board recessed to deliberate what sanction to impose upon its findings

of misconduct by the Respondent.

After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as REVOCATION.

The Board in reaching its decision of revocation recognized that the violation of certain of the Rules such as Rule 1.5(a), 7.1, and 8.4(b) & (c) standing alone may not merit the ultimate sanction of revocation. However, the Respondent's conduct by pursuing litigation in Virginia in Docket No. 04-052-0794 and in the District of Columbia in Docket No. 04-052-1044 is conduct that cannot be tolerated. While a court through sanctions can protect itself from such conduct by a deceitful and unprincipled attorney, the public must look to the VSB for protection. The other violations demonstrate Respondent's complete disregard for the Rules of Professional Conduct.

Furthermore the Respondent was defiant to any criticism of his conduct in pursuing what can only be described as meritless and vexatious litigation. This same defiance was evident to the Board as the Respondent sought to justify his conduct. Therefore the Board concluded that the sanction of revocation was the only remedy by which the public and bar could be adequately protected.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia is revoked, effective

October 27, 2006.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client The Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of October 27,2006, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, ¶ 13,B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being 7924 Peyton Forest Trail, Annandale, VA 22003-1560, by certified mail, return receipt requested, and by regular mail to Noel 0. Sengel, Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314-3133.

ENTERED this 28th day of November, 2006

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: /S/

James Leroy Banks., Jr. 1st Vice Chair